


 **Giuliano, Hallie (Vol. 01) - 03/18/2005**

1 CLIP (RUNNING 00:36:36.929)

 **JURY TRIAL - DAY 9 SEPTEMBER 25, 2006**
Giuliano 18 SEGMENTS (RUNNING 00:36:36.929)**1. PAGE 7:06 TO 7:15 (RUNNING 00:00:26.000)**

06 HALLIE GIULIANO,
 07 was sworn and testified as follows:
 08 EXAMINATION BY COUNSEL FOR THE PLAINTIFFS
 09 BY MR. PARKS:
 10 Q Good afternoon, Mrs. Giuliano.
 11 A Hello.
 12 Q Can you state your full name and address,
 13 home address, for the record?
 14 A Uh-huh. Hallie Elizabeth Giuliano, 657 Old
 15 Hunt Way, Herndon, Virginia, 20170.

2. PAGE 8:19 TO 9:07 (RUNNING 00:00:28.000)

19 Q Great. I am handing you a document which
 20 has been marked Exhibit 1, or Giuliano 1. Do you
 21 recognize this as a subpoena you received calling you
 22 here for this deposition today?
 00009:01 A Yes, I do.
 02 Q So you're not here of your own volition.
 03 You're here pursuant to this subpoena, correct?
 04 A Correct.
 05 Q Okay. Ms. Giuliano, where are you
 06 currently employed?
 07 A ComScore Networks.

3. PAGE 9:22 TO 11:11 (RUNNING 00:01:27.200)

22 Q Okay. By whom were you employed in the
 00010:01 first half of 1999?
 02 A Markowitz & McNaughton.
 03 Q And what was your position at Markowitz &
 04 McNaughton during that period of time?
 05 A I was a managing analyst, and then promoted
 06 to project manager at some point in '99. I don't
 07 recall when.
 08 Q Okay. What is -- what sort of business is
 09 Markowitz & McNaughton in?
 10 A Oh, we were a strategic consulting and
 11 competitive intelligence company, so firms would
 12 commission studies from us to either look at their
 13 customer satisfaction, talking to some of their
 14 customers, or talking to competitive entities, or
 15 doing an entire market analysis, like market share,
 16 revenues, and things like that.
 17 Q Okay. During your time at Markowitz &
 18 McNaughton, did you have occasion to work on a project
 19 on behalf of a Markowitz & McNaughton client, Mack
 20 Trucks, Inc. in --
 21 A Yes.
 22 Q Okay.
 00011:01 A Oops.
 02 Q That's okay. And was that project, did
 03 that involve an Assessment and Benchmark of

04 Competitors' Dealer Management Strategies in the Heavy
05 Truck Industry?
06 A Yes.
07 Q I'm handing you a document that we've had
08 marked for identification as Giuliano Exhibit 2. Do
09 you recognize that to be a final report from Markowitz
10 McNaughton prepared for Ron Gerhard of Mack Trucks,
11 Inc.?

4. PAGE 11:16 TO 13:05 (RUNNING 00:01:25.100)

16 THE WITNESS: Yes, I do recognize that as
17 the final conclusions report.
18 BY MR. PARKS:
19 Q And that document's dated July 6, 1999?
20 The top right-hand corner?
21 A Yes. Uh-huh.
22 Q Okay. If you'd turn to the third page of
00012:01 the document, at the bottom of that page, there is a,
02 in the left-hand column in bold text, it says
03 "Assignment Team," and there are a series of names
04 next to that. Do you see that?
05 A Yes.
06 Q What does that -- what is reflected in that
07 section of this document?
08 A Oh. For each project that we work on,
09 there is a team that usually consists of the vice-
10 president or the person who worked with the client to
11 structure the proposal and the scope, the particular
12 type of work that we're doing for them, and then a
13 project manager, and all of the managing analysts and
14 analysts that -- managing analyst and analyst is just
15 a difference of experience and tenure in the
16 company -- that was the team that actually did the
17 primary source research. Phone calls was the way we
18 conducted the majority of our research.
19 Q And that team worked on the -- this
20 project --
21 A Yes.
22 Q -- reflected in this final report?
00013:01 A Correct.
02 Q Okay. Which, by the way, I might just call
03 the Mack project for short, because the title's pretty
04 long.
05 A Okay.

5. PAGE 13:08 TO 13:18 (RUNNING 00:00:23.100)

08 Q At the top of that page, there in that same
09 left-hand column, where the bold print is, it says,
10 "Business decision driving this assignment." Do you
11 see that?
12 A Yes.
13 Q And next to that it says, "Mack Trucks will
14 use the results of this engagement to make decisions
15 regarding its dealer organization." Do you see that?
16 A Yes.
17 Q What is -- where did that information come
18 from?

6. PAGE 14:07 TO 18:09 (RUNNING 00:04:12.800)

07 THE WITNESS: Okay. The salesperson works
08 with the client to understand what's the nature of the

09 problem or the issue, whatever it is that they want to
10 address in the study, and they scope out the -- the
11 sort of the industry background and what the challenge
12 that the client is facing, and what they want to
13 accomplish from the, from the actual conclusion, from
14 the study.

15 BY MR. PARKS:

16 Q Okay. Would Markowitz & McNaughton --
17 well, strike that.

18 Are you generally familiar with final
19 reports based on the time you were at Markowitz &
20 McNaughton, of the nature of Exhibit 2?

21 A Yes. I frequently wrote them.

22 Q Okay. And when you were writing the final
00015:01 reports, was there typically a section in the
02 introduction on the subject of what business decision
03 would be driving the assignment for the client in
04 question?

05 A If I understand your question correctly,
06 usually this first page is taken kind of directly from
07 the proposal documents that the, the salesperson --
08 when we have a -- when we begin a project, the
09 assignment team is given a proposal document that goes
10 through the types of issues and the types of questions
11 we want -- that the client wants us to address. This
12 section here, the business decision driving this
13 assignment, is usually taken, if not verbatim, it's
14 usually pretty close to something directly out of that
15 proposal document. So, you know, it's something that
16 the client and our salesperson generates together
17 based on what the client is trying to achieve from the
18 report.

19 Q Okay. Can you turn to the ninth page? It
20 says page 9 of 58 at the top right-hand corner of the
21 document. It has, "Key issues for Mack Trucks to
22 consider in the short-term."

00016:01 A Uh-huh.

02 Q Do you see that?

03 A Yes.

04 Q And then there's a heading, "Fewer
05 franchises, more dealerships." Do you see that?

06 A Yes.

07 Q What is that -- what is reflected on this
08 page?

09 A This would be in a -- we termed this
10 document the conclusions document, because after we've
11 done all of our research, the beginning of the
12 document we usually try to hit the highlights of --
13 these are Markowitz & McNaughton's recommendations for
14 what their client should do to address their issue.
15 So it's sort of a synopsis of what we determined, and
16 then later on in the report gives more details.

17 Q Okay.

18 A So I don't recall -- I mean, I'd have to
19 read through this to know what is meant by the actual
20 text there, but that's generally what these points
21 are, sort of a synopsis.

22 Q Okay. Let's take a look, then, a little
00017:01 bit further down, you see some italicized text,
02 "Action Steps for Mack Trucks"?

03 A Uh-huh. Yes.

04 Q And there are three bullet points below

05 that. Do you see that?

06 A Yes.

07 Q Are those bullet points the steps that
08 Markowitz & McNaughton was recommending Mack Trucks
09 take based on the findings in the report?

10 A Yes.

11 Q Let's look at the first bullet point. It
12 speaks of Peterbilt and Volvo pursuing a, quote,
13 "single owner," unquote, approach?

14 A Yes.

15 Q And it goes on to say that, "Peterbilt
16 believes fewer franchises result in increased control
17 over the network. Furthermore, implementation of
18 policy changes and communication of new programs is
19 relayed more quickly because there are fewer points of
20 contact. If Mack chooses to pursue this strategy, it
21 should seek out larger dealers with greater financial
22 resources. Moreover, larger dealers are typically
00018:01 more technologically sophisticated. However, Mack
02 should be careful not to relinquish too much control
03 into the hands of too few dealers."

04 My question is, was your recommend -- was
05 your recommendation, or was the recommendation of
06 Markowitz & McNaughton, that Mack should pursue a
07 single owner approach, which would include seeking out
08 larger dealers with greater financial resources to
09 populate the -- its distribution network?

7. PAGE 18:15 TO 20:01 (RUNNING 00:01:27.000)

15 THE WITNESS: Uh-huh. What I construe from
16 reading this -- and this was six years ago, so the
17 actual results of the research are not that fresh in
18 my mind. What I construe from this is Peterbilt and
19 Volvo are either perceived as or actually are the
20 strongest dealers in the industry, and this is the
21 strategy that has been effective for them. And one of
22 the -- the focus of this report was, was addressing
00019:01 some of Mack's concerns with its dealer network. This
02 was our recommendation of how they could possibly
03 strengthen their dealer network by using almost the
04 best practice from two companies who have proven
05 strong dealer networks in the industry.

06 BY MR. PARKS:

07 Q Okay. Skipping down to the third bullet
08 point, that bullet point reads as follows: "In an
09 effort to rid its network of non-performing dealers,
10 Mack should encourage larger franchises to buy out
11 non-performing dealerships. In this strategy,
12 successful franchise owners manage more dealerships.
13 Furthermore, large owners are more committed and
14 sophisticated than smaller owners. Therefore, as a
15 business decision, large single owners -- larger
16 single owners are more likely to improve the
17 performance of the substandard dealership or close
18 it."

19 My question is, is that one of the
20 recommendations that Markowitz & McNaughton was making
21 to Mack as an action step based on its findings --
22 based on Markowitz & McNaughton's findings in this
00020:01 study?

8. PAGE 20:06 TO 21:19 (RUNNING 00:02:17.900)

06 A Okay. Since it's listed under "Action
07 Steps for Mack Trucks," this is a recommendation that
08 we were making to Mack Trucks.

09 Q Thank you. You can put that document
10 aside.

11 I am now handing you a document we've
12 marked Giuliano Exhibit 3. And my question for you is
13 whether you recognize this to be a letter from Michael
14 Moeser of MMI, to Ron Gerhard of Mack Trucks, Inc.,
15 dated January 14th, 1999, which was a proposal for the
16 project, the result of which was reflected in Giuliano
17 Exhibit 2, the final report?

18 A Yes.

19 Q Okay. I see some handwriting on the first
20 page of Giuliano Exhibit 3. Do you know whose
21 handwriting that is?

22 A That's my handwriting.

00021:01 Q Okay. Was Giuliano Exhibit 3 a document
02 that you had access to during the period of time you
03 were with Markowitz & McNaughton and working on the
04 Mack project in 1999?

05 A Yes. This is the -- as I mentioned, when
06 we're kicking off a new project, the assignment team
07 meets before we have an initial meeting with the
08 client. And this is the proposal document that we go
09 through, so this was my copy that I took notes on.

10 Q Okay. If you could turn to the second page
11 of Giuliano Exhibit 3. Under the heading, "The
12 Business Decision Driving This Engagement," it says,
13 "Mack will use the results of this engagement
14 (proposed in three distinct phases) to make decisions
15 regarding its dealer organization." Do you see that?

16 A Yes.

17 Q And again, is that information that was
18 developed by Markowitz & McNaughton, or is that
19 information that comes ultimately from the client?

9. PAGE 22:04 TO 23:14 (RUNNING 00:01:15.300)

04 A Okay. The -- this is a document generated
05 by Markowitz & McNaughton, but with information from
06 Mack. So this is what the salesperson and the
07 representative from Mack would create together, and
08 Mack has to approve this document before they sign the
09 contract.

10 Q Okay. Under the next heading there,
11 "Requirements and Constraints," there's a reference
12 there to three phases of activity. Do you see that?

13 A Yes.

14 Q Okay. And then the document describes the
15 different phases. It says, "Phase I will provide Mack
16 a better understanding of how competitors manage their
17 dealer organizations, and will benchmark both Mack and
18 competitor dealers."

19 Is it fair to say that the report reflected
20 in Giuliano Exhibit 2 was the result of Phase I of
21 this study?

22 A That's correct.

00023:01 Q The document then goes on to describe Phase
02 II. It says, "Phase II will identify potential
03 candidates for new Mack franchises," correct?

04 A Yes.
 05 Q And was that your understanding of Phase II
 06 of the project?
 07 A Yes.
 08 Q Okay. And then it goes on to speak of
 09 Phase III. And it says, "Phase III will help guide
 10 the direction and funding of programs to strengthen
 11 the dealer network." And my question is, was that
 12 your understanding of what Phase III was for this
 13 project as proposed?
 14 A Yes.

10. PAGE 28:22 TO 34:18 (RUNNING 00:05:40.200)

22 Q If you could skip forward to page 11 of 32
 00029:01 on the top right-hand corner. And that has the
 02 heading, "Our approach to Phase I," correct?
 03 A Yes.
 04 Q Okay. The third bold heading down that
 05 page, it says "Kickoff Meeting." Do you see that?
 06 A Yes.
 07 Q What -- did -- did the projects you worked
 08 on at Markowitz & McNaughton typically include a phase
 09 which would be described as the kickoff meeting?
 10 A Yes. There was always a kickoff meeting
 11 between the client and the assignment team to begin
 12 the project.
 13 Q Okay. And below this heading Kickoff
 14 Meeting, it says, "During the kickoff meeting (by
 15 telephone conference call) to start this assignment,
 16 we will," and then there's a series of bullet points,
 17 correct?
 18 A Yes.
 19 Q And one of those bullet points is, it's the
 20 fourth one down, "Listen carefully as you describe
 21 your industry and market, particularly those issues,
 22 problems and uncertainties that led you to commission
 00030:01 this assignment; what business decision, choices or
 02 actions you will base on the results; and when you
 03 will need the results."
 04 Now, first, the "you" in that -- after that
 05 bullet point in the text I just read, that's Mack,
 06 correct?
 07 A Yes, it is.
 08 Q And generally speaking, was that one of the
 09 purposes of the kickoff meeting, to listen as the
 10 client described the industry and the problems and the
 11 timing and so forth?
 12 A That's the primary purpose of the kickoff
 13 meeting, because Markowitz & McNaughton does not
 14 special -- did not specialize in any particular
 15 industry. So frequently, the work we were doing was
 16 our first -- it was our introduction to that industry.
 17 So it was critical for the client to give as much
 18 background as possible to facilitate our research.
 19 Q Now, if you could turn back to the first
 20 page of the document. I had asked you about some of
 21 the handwritten text on the first page, and you had
 22 told me that it was yours. One of the handwritten
 00031:01 notations says, "Thursday, 3 p.m., K/O." Is that a
 02 reference to the timing of the kickoff meeting for
 03 this project?

04 A Yes, it is.

05 Q And next to it it says, "Meet 2:30"? Is
06 that a reference to the fact you were going to meet
07 for a half an hour before the kickoff meeting with
08 Mr. Gerhard?

09 A Right. The assignment team would meet at
10 2:30 prior to our conference call at 3 p.m. for the
11 kickoff.

12 Q Okay.

13 MR. HEEP: I don't mean to -- can you
14 just -- can you just clear up the answer to that
15 question? Did -- was the 2:30 meeting with
16 Mr. Gerhard, or was it just between you, and then the
17 3 o'clock meeting was with Mr. Gerhard? I assume you
18 want me to ask that.

19 MR. PARKS: Sure. I will adopt Mr. Heep's
20 question.

21 THE WITNESS: Okay. Two-thirty is the
22 meeting just amongst the Markowitz & McNaughton
00032:01 assignment team, for us to make sure we review the
02 proposal document here with the salesperson. And then
03 at 3 p.m., we would have the kickoff meeting with the
04 Mack Trucks representative.

05 MR. PARKS: Thanks. You can set that
06 document aside.

07 THE WITNESS: Okay.

08 BY MR. PARKS:

09 Q Ms. Giuliano, was it typically your
10 practice during your time you were at Markowitz &
11 McNaughton, and participating in these kickoff
12 meetings, to make notes during the kickoff meeting?

13 A Yes.

14 Q And generally speaking, what did you try --
15 what information did you try to capture in those notes
16 you made of those kickoff meetings?

17 A As much background about the industry that
18 was relevant to the project at hand, you know, any
19 specific things that we would need to address. Also,
20 scope of the project to make sure I clearly understood
21 that.

22 Q Okay. I'm going to hand you a document
00033:01 we've marked for identification as Exhibit Giuliano 4.
02 Do you recognize these to be notes that you took at
03 the kickoff meeting for the Mack project on March 11th
04 of 1999?

05 A Yes, I do.

06 Q Okay. And your name appears at the top
07 right-hand corner of the first page, correct?

08 A Yes.

09 Q And this is your handwriting?

10 A Yes, it is. I don't know if the
11 underscored Giuliano is my handwriting. Actually,
12 it -- yeah. I don't know if that's my handwriting,
13 but everything else on the page is mine.

14 Q Okay. And if you could look through the
15 entire document, if you could let me know whether
16 everything else in the balance of the document is your
17 handwriting as well.

18 A Yes, everything else is my handwriting.

19 Q Okay. Now, can you please turn to the last
20 page of the document? I'd like to ask you about an
21 entry that appears -- it's -- looks like the second

22 entry down on that page. Begins Competitive
 00034:01 environment. Do you see that?
 02 A Yes.
 03 Q Can you read that entry for me, through the
 04 word "territory"?
 05 A Sure. It says, "Competitive environment
 06 for dealers, quotes, 'Gentleman's agreement,'
 07 unquotes, that you sell in your area only, but some go
 08 into others' territory."
 09 Q Okay. What was the source of that note?
 10 Was that a statement made by somebody, or a thought
 11 you had in your head as you were sitting in this
 12 kickoff meeting?
 13 A A statement made by Ron Gerhard, who was
 14 the representative from Mack.
 15 Q Okay. And did Mr. Gerhard state at that
 16 meeting that there was a gentleman's agreement among
 17 Mack dealers to sell only in their own area of
 18 responsibility?

11. PAGE 34:20 TO 35:10 (RUNNING 00:00:31.000)

20 THE WITNESS: There was a gentleman's
 21 agreement. I'm not sure if it was in the industry or
 22 just amongst Mack dealers. But that is his, his
 00035:01 statement. I was not familiar with gentleman's
 02 agreements before, so that would have to be something
 03 he said in the kickoff meeting.
 04 BY MR. PARKS:
 05 Q Okay. And did -- did he also say at that
 06 kickoff meeting that some dealers did not honor the
 07 gentleman's agreement and went into other dealers'
 08 territories?
 09 A Yes, as evidenced by what I wrote, "Some go
 10 into others' territory."

12. PAGE 37:06 TO 37:16 (RUNNING 00:00:35.600)

06 Q Independent of the notes, and before you
 07 saw them, did you have a specific recollection of the
 08 statements made by anybody at the kickoff meeting in
 09 1999, here in 2005?
 10 A Independent of the notes, I didn't recall
 11 much of the project, because it was six years ago.
 12 When I saw the notes, it refreshed my memory about the
 13 project and the fact that I wrote in there, as did
 14 Mr. Segura, about the gentleman's agreement would have
 15 to -- would have to mean that he -- that Mr. Gerhard
 16 specifically said that in the meeting.

13. PAGE 38:05 TO 38:18 (RUNNING 00:00:35.000)

05 Q Ms. Giuliano, I'm handing you a document
 06 we've marked for identification as Giuliano Exhibit 6.
 07 Do you recognize this document to be a Declaration and
 08 Certification that you signed on or about February
 09 17th, 2005?
 10 A Yes.
 11 Q Did you have an opportunity to review this
 12 Declaration and Certification for accuracy before
 13 signing it?
 14 A Yes.
 15 Q And did you conclude that the statements in
 16 the cert -- Declaration and Certification were

17 accurate before you signed it?

18 A Yes.

14. PAGE 39:11 TO 43:03 (RUNNING 00:04:03.429)

11 Q Okay. I'd like -- good afternoon.

12 A Hello.

13 Q I'm Jeremy Heep, and I'll be asking you a
14 couple questions. I'll try to be as brief or briefer
15 than Mr. Parks, and we appreciate his having gone
16 through this so quickly.

17 I want to ask you some questions about the
18 exhibit that's been marked Giuliano 4, which you
19 testified were your notes from the kickoff meeting.

20 A That's correct.

21 Q I'd like you to turn to the second page of
22 the notes. Let me ask you a general question first.

00040:01 Did I understand right that independent of these
02 notes, you had no recollection, or you have no
03 recollection of this meeting whatsoever?

04 A Oh. Prior to seeing the notes? I
05 definitely have recollection of the meeting and the
06 project that I worked on. I didn't have specific
07 recollection of exactly what the scope of the project
08 was and what our conclusions were. After seeing the
09 notes, it all came back to me.

10 Q Okay. Other than what you've written down
11 here, do you have a recollection of specific things
12 that were said in the meeting?

13 A I -- I do recall a specific focus of the,
14 of the project was Mack was having particularly
15 difficult -- a difficult time in selling its
16 non-construction trucks, so I guess the highway trucks
17 and day trucks. Had good success with the
18 construction trucks, but very low market penetration
19 on the other two types of trucks, and that was one of
20 the major areas. They wanted to better understand how
21 Freightliner, in particular, was very successful with
22 highway trucks. And they wanted to understand how

00041:01 they were able to accomplish that. Did they have
02 certain dealer strategies that would -- that have
03 helped them be more successful than Mack? So the real
04 focus of the study was, What can we do with our dealer
05 organization to improve our position in the
06 marketplace and gain a best practice knowledge from
07 the competitors?

08 Q And in -- now, turning your attention to
09 the second page, which the bottom is marked CMM 01006.
10 Do you see where I am?

11 A Yes.

12 Q You see in the middle of the page where it
13 says, "Mack has limited knowledge of what's going
14 on -- dealers won't tell them"?

15 A Yes.

16 Q Is that reflective of something Mr. Gerhard
17 said during the meeting?

18 A Yes, it is.

19 Q Okay. Do you know whether he was referring
20 there to Mack dealers or to other dealers?

21 A I would assume his own dealers, the Mack
22 dealers.

00042:01 Q Okay. So you're assuming that, that by --

02 through reading your notes, that he was telling you
 03 that Mack has limited knowledge of what's going on in
 04 its own dealer network, because those dealers won't
 05 tell them?

06 A Correct.

07 Q And then the next line, it says, "How are
 08 competitors managing their networks?" Is that a
 09 question that he asked?

10 A Yes. He was trying to define scope of the
 11 project. That's one thing they wanted to understand
 12 from the project, from the research we did.

13 Q And then the next question, "How is
 14 internal dealer development groups organized,
 15 staffed?" Did you also understand that to be a
 16 reference to competitors?

17 A Correct. They wanted to understand how
 18 competitors structured their dealer management
 19 organizations to determine if Mack needed to
 20 restructure its own dealer management group.

21 Q So the focus of the project, as I
 22 understand it, was to understand and learn from how
 00043:01 Mack's competitors were managing their dealer
 02 networks?

03 A That's correct.

15. PAGE 44:22 TO 48:11 (RUNNING 00:05:02.400)

22 Q And then we see the competitive environment
 00045:01 for dealers, "gentleman's agreement" that you sell in
 02 your area only, but some go into others', others'
 03 territory. And then when Mr. Parks was asking you
 04 questions, he asked if you knew what that meant. And
 05 you said, well, you weren't sure if it was a reference
 06 to the industry, or just to Mack dealers, right?

07 A Correct.

08 Q Okay. And so look -- looking here at the
 09 notes, you don't -- do you know one way or the other
 10 whether Mr. Gerhard was referring to Mack dealers at
 11 all, or was he perhaps referring to Freightliner
 12 dealers or dealers of other competitors?

13 A I can't tell if -- I don't know -- I don't
 14 know if he was specifically talking about Mack dealers
 15 or dealers in the industry, or relative to a
 16 particular competitor.

17 Q Okay. So you don't know one way or another
 18 whether this reference could have been to competitors'
 19 dealers?

20 A It -- I don't know if it was specifically
 21 Mack dealers or competitor dealers or industry wide,
 22 there was a gentleman's agreement industry wide.

00046:01 Q So, if -- if you turn to your affidavit,
 02 which was Exhibit 6, and you have paragraph 11 there?

03 A Uh-huh.

04 Q Where it says, "During the kickoff meeting,
 05 Mr. Gerhard said there was a 'gentleman's agreement'
 06 among Mack dealers that they would sell only in their
 07 own area of responsibility," would it be more accurate
 08 to say during the kickoff meeting, Mr. Gerhard stated
 09 that there was a gentleman's agreement, either amongst
 10 Mack dealers or amongst competitors of Mack dealers,
 11 that they would only sell in their area of
 12 responsibility?

13 A Um, I think the -- I think it would be
 14 false to exclude Mack dealers from that, because if
 15 you look at -- if I look back at the context of the
 16 notes as a whole and what he was trying to convey to
 17 us, and what some of their issues in particular were
 18 with the dealers, there were issues with -- he
 19 wouldn't have brought that up if it wasn't relevant to
 20 Mack dealers. So I would say, you know, perhaps --
 21 like I said, perhaps it goes industry wide, but I
 22 would include Mack dealers -- Mack truck dealers in
 00047:01 that statement about gentleman's agreement.

02 Q Okay. But he was -- just to be clear. I
 03 just want to make sure that we understand. Above, he
 04 is telling you about Freightliner dealers -- this is
 05 in your notes -- and giving you information about what
 06 other dealers did and how their networks were managed.
 07 Are you sure, sitting here today, that the next
 08 comment, when he's just talking about competitive
 09 environment generally and not even mentioning Mack,
 10 that that reference does include Mack dealers, or is
 11 it possible that he could be telling you about, as he
 12 had in the previous pages and just above, about how
 13 other dealer networks are conducting themselves?

14 A When I look at the structure of the notes,
 15 the fact that this is the last page and things were
 16 wrapping up, I recall it more of sort of, this is a
 17 wrap-up. This is the dealer environment as a whole.
 18 And it -- he would have said that comment relevant to
 19 what they're experiencing as well. Because if only
 20 Freightliner or Paccar or the other dealers
 21 experienced that but Mack didn't, it wouldn't be
 22 relevant to our project in the scope of what we were
 00048:01 trying to do. He's trying to give us background into
 02 the industry. And that's -- that's when -- into the
 03 industry, as well as what he's trying to -- as well as
 04 what Mack is trying to address.

05 Q Okay. So you're --

06 A If that helps clear it up a little.

07 Q Sitting here today, you don't -- you don't
 08 remember that specifically. You're just sort of
 09 reconstructing it, and would it be accurate to say
 10 you're guessing that's what -- that that particular
 11 comment included Mack dealers?

16. PAGE 48:16 TO 48:22 (RUNNING 00:01:17.300)

16 THE WITNESS: I wouldn't call it guessing,
 17 because I feel -- I'm confident in remembering what I
 18 do remember of that meeting, and how I take notes and
 19 the thought process, that if it wasn't -- it had to be
 20 a relevant statement to Mack and its dealers, so --

21 MR. HEEP: Okay. I don't have anything
 22 else. Thank you.

17. PAGE 51:18 TO 55:12 (RUNNING 00:04:19.600)

18 Q Who -- who drafted this affidavit that's
 19 Exhibit 6?

20 A Mr. Parks did.

21 Q How many times have you spoken with
 22 Mr. Parks before today?

00052:01 A Let me think. Probably three. I first
 02 called to understand the nature of the, like why I was

03 being -- why I was being contacted. When I -- my
 04 first concern was when I worked at Markowitz &
 05 McNaughton, I had to sign a confidentiality statement
 06 that we wouldn't release the identification of any
 07 clients that we worked with, so I wanted to understand
 08 how they got my name and that sort of thing, and I
 09 actually contacted Pepper Hamilton as well and spoke
 10 with Barak Bassman asking him the same question, to
 11 make sure that since he represented Mack that I was
 12 covered in that aspect. And, you know, he explained
 13 to me what -- what he was asking me to do, to verify
 14 that certain notes that were provided by Markowitz &
 15 McNaughton from a project were, in fact, mine. So I
 16 agreed to do that.

17 And then I signed the Declaration of
 18 Certification, so that I guess would have been the
 19 second contact. And then he contacted me a third time
 20 when the, I guess the request to submit my Declaration
 21 in writing wasn't accepted for whatever reason, and
 22 that I would have to do a live deposition. And I, I
 00053:01 guess, spoke with him a fourth time to confirm I would
 02 do that, and set up the logistics of where to do that.
 03 And I also spoke with Barak Bassman a second time
 04 after finding out that I needed to do the live
 05 deposition to ask him why.

06 Q Did -- did you meet with Mr. Parks today
 07 before the deposition?

08 A Yes.

09 Q For how long?

10 A Fifteen minutes.

11 Q Where was that meeting?

12 A In an office -- one of the offices here at
 13 Mintz Levin.

14 Q And what did you -- what did you do during
 15 that meeting?

16 A He showed me the documents that he was
 17 going to present, and kind of explained, since I've
 18 never been deposed before, what we were going to go
 19 over, because I had asked him in a previous
 20 conversation how this works. You know, what sort
 21 of -- am I going to be privy to things before or kind
 22 of surprised by them or what? Like how much time I
 00054:01 would -- how much time would be required and that sort
 02 of thing. So we -- he just showed me I think all of
 03 the documents that we're looking at here today saying
 04 these are the things that he would present. We didn't
 05 go through them. He showed me -- actually, yes. We
 06 did actually go through them. Just the portions that
 07 he -- that he had highlighted.

08 Q Did he tell you what questions he was going
 09 to ask about them?

10 A Not all of the questions that he did end up
 11 asking, but in general what we -- what we were going
 12 to talk about.

13 Q Okay. And then you -- you told -- did you
 14 tell him what answers you were going to be providing?

15 A Not -- certainly not in depth of what we
 16 did today, but I had mentioned before that, you know,
 17 the focus of -- what the focus of the project was
 18 and -- yeah, that was -- we definitely didn't do a
 19 back and forth.

20 Q Was that the only time that you had a

21 substantive discussion with Mr. Parks about the
 22 documents and the things that he was interested in
 00055:01 asking about?
 02 A No. When I first called to find out why,
 03 what the nature of this was, what it was about, and he
 04 provided me the notes, gave me a little bit of
 05 background that, that Markowitz & McNaughton had
 06 commissioned a study that was of interest, was part of
 07 a, part of a lawsuit, and that's what I would be
 08 subpoenaed for. And, you know, if I could look
 09 through my notes and, you know, verify that they were
 10 mine. And he did specifically ask me about the
 11 gentleman's agreement, if this is what I wrote, and if
 12 this is what Ron Gerhard said.

18. PAGE 55:21 TO 56:22 (RUNNING 00:01:10.000)

21 Q Did you -- in -- were you then involved in
 22 Phase I of this project?
 00056:01 A Just Phase I. Correct.
 02 Q Okay.
 03 A Of the Markowitz & McNaughton project you
 04 mean?
 05 Q Yeah.
 06 A Right.
 07 Q Did you then investigate -- well, what --
 08 let me ask it more broadly. What was your role in
 09 the, in Phase I of the project after this kickoff
 10 meeting?
 11 A I was the managing analyst, which means I
 12 was the senior research gatherer on the team. So I
 13 would manage the other analysts on the project. In
 14 this case, Jodi Campbell and Bernie Segura. And I
 15 would also take a large role in writing this actual
 16 conclusions document, Exhibit 2. And also made a
 17 presentation at Mack to present these findings to
 18 Mr. Gerhard with Mike Moeser.
 19 MR. HEEP: Okay. I have nothing else.
 20 MR. PARKS: I think we're done. Thanks
 21 very much.
 22 THE WITNESS: Okay.

TOTAL: 1 CLIP FROM 1 DEPOSITION (RUNNING 00:36:36.929)